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KANSAS HEALTH POLICY AUTHORITY

2009

OFFICE OF THE INSPECTOR GENERAL ANNUAL REPORT

Felany Opiso-Williams
Interim Leader of the Office of Inspector General

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TABLE OF CONTENTS

LETTER FROM THE OFFICE OF INSPECTOR GENERAL

January 2009

Dear Reader:

This annual report has been prepared by the Kansas Health Policy Authority (KHPA) Office of Inspector General (OIG) pursuant to the requirements of K.S.A. 75-7427 and is respectfully submitted to:

- Honorable members of the Kansas Health Policy Authority Board
- Dr. Marcia J. Nielsen, PhD, MPH, Executive Director of the Kansas Health Policy Authority
- The Honorable Kathleen Sebelius, Governor of the State of Kansas
- Honorable members of the Kansas Senate's Committee on Ways and Means
- Honorable members of the Kansas House of Representative's Committee on Appropriations
- Honorable members of the Kansas Legislature's Joint Committee on Health Policy Oversight
- Ms. Barbara J. Hinton, Legislative Post Auditor
- The people of the State of Kansas

The report provides an introduction to the KHPA OIG and describes the OIG's accomplishments in fiscal year 2008 and recent activities. It also provides general statistics on provider billing, payments, and sanctions, and outlines KHPA's program integrity activities.

We, in the OIG, take our responsibility in promoting increased accountability and integrity in KHPA programs and operations seriously. We hope this report provides you with valuable information. We welcome any questions or comments you may have regarding the contents of this report.

Sincerely,

Felany Opiso-Williams
Interim Leader of the Office of Inspector General

INTRODUCTION TO THE KHPA OFFICE OF INSPECTOR GENERAL

The Kansas Health Policy Authority (KHPA) Office of Inspector General (OIG) was created by the 2007 Kansas Legislature as part of a much larger health reform bill, commonly referred to as Senate Bill 11. This creation of an independent oversight body, with the responsibility to review and investigate KHPA's performance in delivering health services, was a significant step in reforming public health care in Kansas.

The KHPA OIG, whose enabling statute is K.S.A. 75-7427, is the first statutorily created Office of Inspector General in Kansas. Its mission is:

- to provide increased accountability and integrity in KHPA programs and operations;
- to help improve KHPA programs and operations; and
- to identify and deter fraud, waste, abuse and illegal acts in the State Medicaid Program, the MediKan Program and the State Children's Health Insurance Program.

To fulfill its mission, the KHPA OIG conducts:

- investigations of fraud, waste, abuse and illegal acts by KHPA or its agents, employees, vendors, contractors, consumers, clients and health care providers or other providers;
- audits of the KHPA, it's employees, contractors, vendors and health care providers related to ensuring (1) that appropriate payments are made for services rendered and (2) that overpayments, if any, are recovered;
- investigations of fraud, waste, abuse and illegal acts committed by clients of KHPA or by consumers of services administered by KHPA;
- monitoring of adherence to the terms of the contracts between KHPA and organizations with which the KHPA has entered into contracts to make claim payments; and
- other mission-related functions.

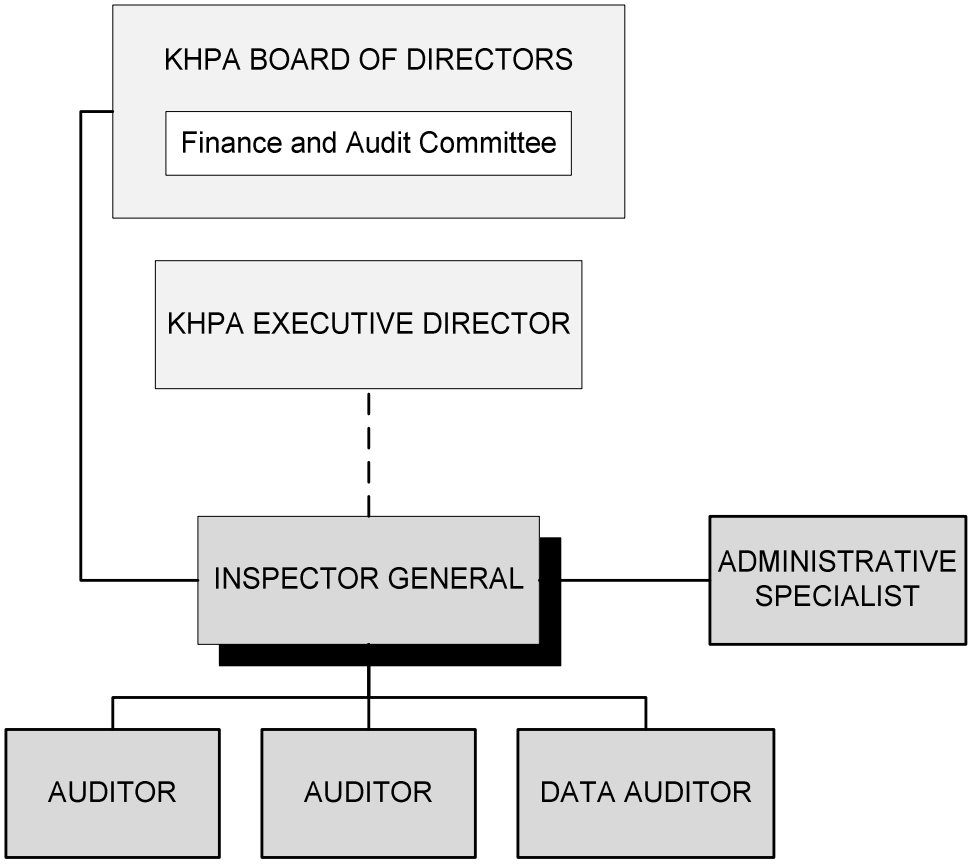
As required by K.S.A. 75-7427, the KHPA OIG will report findings of fraud, waste, abuse or illegal acts to KHPA and also refer those findings to the Attorney General.

The KHPA OIG conducts its audits in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office and its reviews and investigations in accordance with the Quality Standards for Investigations, Inspections, Evaluations, and Reviews of the Association of Inspectors General (AIG).

Due to the current vacancy in the Inspector General position since November 2008, Ms. Felany Opiso-Williams was appointed by the KHPA Board as the interim leader of the KHPA OIG. Ms. Opiso-Williams is the senior staff member in the KHPA OIG and will oversee the day-to-day operations of the OIG until such time as the Inspector General position is filled or until the interim leadership role is rotated to another staff member. Prior to working for the KHPA OIG, Ms. Opiso-Williams was an auditor for the Kansas Legislative Division of Post Audit. She received her Master's degree in Public Administration and Certificate in Public Finance from Wichita State University, where she was a George Van Riper Fellow.

ORGANIZATIONAL STRUCTURE

As required by K.S.A. 75-7427 and amended by House Bill (HB) 2578, the Inspector General reports functionally to the KHPA Board and administratively to the KHPA Executive Director. On a monthly basis, the Inspector General reports to the KHPA Board's Finance and Audit Committee. Currently, the KHPA OIG has a staff of three auditors and one administrative specialist.



ACTIVITIES AND ACCOMPLISHMENTS

FISCAL YEAR 2008

The KHPA OIG has been in existence for a little over a year. In fiscal year (FY) 2008, KHPA OIG activities were limited to those relating directly to building the infrastructure of the office and planning for future audits, reviews and investigations.

Infrastructure-building activities included:

- developing policies for audits, reviews and investigations to provide guidelines for the work of the OIG
- developing and building collaborative relationships with KHPA management to ensure that all staff functions are working together to carry out the responsibilities of KHPA
- drafting communications protocols which outline how the OIG will communicate with the KHPA Board, the KHPA staff, the Kansas Department on Aging and the Kansas Department of Social and Rehabilitation Services (SRS)
- building a working relationship with law enforcement agencies such as the Kansas Attorney General's Office and the U.S. Attorney's Office
- recruiting staff with professional qualifications that will assure the OIG can produce accurate and to-the-point audit and investigative reports
- networking with other Offices of Inspector General throughout the country, as well as other auditing organizations such as the Kansas Legislative Division of Post Audit, the Johnson County Auditor and the U.S. Government Accountability Office (GAO)

Audit-planning activities included:

- completion of an agency-wide risk assessment in March 2008, which was modeled after GAO's risk assessment process and serves as the cornerstone of both the KHPA OIG audit planning activities and KHPA's enterprise risk management
- completion of an annual audit plan for FY 2009, including a list of audit target areas for FY 2010 – 2012

Other activities included:

- providing testimony to the Senate Committee on Ways and Means in support of Senate Bill (SB) 456 which proposed changing statutory language to allow the KHPA OIG to continue to report to the Executive Director administratively but to report to the KHPA Board functionally (This proposed change was amended into HB 2578, which the 2008 Kansas Legislature enacted.)

FISCAL YEAR 2009 TO DATE

The KHPA OIG conducts audits based on an approved annual audit plan, and conducts investigations and limited scope reviews based on complaints received from the public, referrals from legislators and the KHPA Board, and issues identified by KHPA management and OIG staff. During the first half of FY 2009, the KHPA OIG completed the following audits and reviews:

Audits

(1) ***Performance Audit of the Medicaid Home Health Fee-for-Service Program***. Auditors identified the following internal controls KHPA uses to ensure the appropriateness and accuracy of Medicaid payments and to prevent fraud in the Medicaid Home Health Fee-for-Service Program: (1) electronic edits and audits in the computerized claims processing system known as the Medicaid Management Information System (MMIS); (2) program reviews conducted by key management staff; (3) prior authorizations for certain services before those services are provided to consumers; and (4) post-payment audits of providers.

However, auditors found KHPA could improve efforts in several areas. Audit findings include:

- KHPA staff does not review consumers' written plans of care, unless the case requires prior authorization or the home health agency (HHA) is subject to an audit by KHPA. A consumer's plan of care (POC) identifies medically necessary services for the consumer and should be signed by a physician. Reviewing consumer POCs ensures only medically necessary services are provided to consumers. Management said the planned expansion of prior authorization for all home health services, coupled with existing documentation requirements, is sufficient to address OIG's concerns.

- Auditors reviewed 10 prior authorized claims paid in FY 2007 and found the number of service units claimed within the period exceeded the frequency or duration of services prescribed in the consumers' POCs. KHPA staff informed auditors an existing MMIS edit ensures an HHA cannot bill in excess of the total number of units allowed for the prior authorized period. However, the MMIS prior authorization edit does not screen for HHAs that bill in bulk for services that may not yet have been provided. Checking the reasonableness of the number of service units HHAs bill helps ensure only services actually provided are paid. Management said they will re-examine KHPA's prior authorization process.

- Providers are allowed to bill only full units of service. One unit of service is 15 minutes. If 16 minutes of service is provided, an HHA bills for two full units. This imprecise method of billing allows an HHA to increase its reimbursement by spending one more minute with a consumer than is necessary. Requiring HHAs to bill for partial units based on the actual amount of time service is provided should discourage providers from submitting excessive claims. MMIS is currently capable of converting fractions of units to a percentage of a unit payment. Management concurs with this recommendation and plans to implement it in concert with other reforms.

- Auditors reviewed home health claims in FY 2004-2007, and identified seven HHAs that billed for services using more than one provider number. KHPA currently does not have an easy way to track all the numbers associated with one provider. This issue was identified by the Centers for Medicare and Medicaid Services (CMS) when it reviewed and certified the current MMIS. To address the issue, CMS suggested EDS create a cross reference table to track all numbers associated with a provider. Auditors agree with CMS' recommendation. Management concurs with this recommendation and will work with EDS to create a table in MMIS to cross reference provider identification numbers.

- Auditors found EDS does not immediately deactivate old provider numbers. If a provider changes its federal employer identification number (FEIN) due to change in ownership or structure, KHPA issues a new provider number but relies on the provider to request that the old number be deactivated. If no request is received, the provider number is turned off after 18 months of inactivity. Waiting a full 18 months to deactivate old numbers creates an opportunity for providers to submit duplicate claims without being discovered by MMIS. Auditors recommend KHPA turn off old provider numbers promptly. If needed, KHPA should create a method to allow for the payment of claims billed under the old provider number. Management concurs with this recommendation.

  Cost savings associated with auditors' findings have not been quantified due to the extensive file review that would be required. The KHPA OIG released this audit report in October 2008. The complete audit report can be accessed on the KHPA OIG's website at http://www.khpa.ks.gov/OIG/default.htm.

Reviews

(1) *Review of the Medicaid Commercial Non-Emergency Medical Transportation (C-NEMT) Program*. The KHPA OIG received a complaint from a member of the public alleging KHPA does not send provider manual amendments to providers and requires unnecessary use of private health information.

Auditors found that KHPA complied with its contract requirement to notify providers of amendments to the provider manuals. However, instructions on how to obtain a copy of the amendments have been inconsistent. According to management, after KHPA awarded the Kansas Medical Assistance Program (KMAP) fiscal agent contract to EDS in 2003, a decision was made by KHPA to move the notification process for providers from a hard copy format to a web-based system. To accomplish this transition to web-based notification, the process for bulletin notifications has evolved over time. Management said if they continue to receive comments from providers with regard to this issue, KHPA will plan additional communications to clarify this process with all enrolled providers.

Auditors also found that the use of private health information (PHI) on the form which justifies the medical necessity of providing NEMT services greater than 50 miles would likely be considered allowable under HIPAA exceptions. Nonetheless, auditors suggest C-NEMT providers make reasonable efforts to use, disclose, and request only the minimum amount of PHI needed to accomplish the intended purpose. According to management, the information noted on the medical necessity form is required to determine whether the NEMT request meets criteria for coverage, and thus ensure access to medically necessary transportation services for Medicaid beneficiaries. Furthermore, management said KHPA cannot use Medicaid funds to reimburse transportation costs unless required conditions are met.

(2) *Review of the State Employee Health Benefits Plan's HealthQuest Mail Outreach Process.* The KHPA OIG received a complaint from a member of the public alleging KHPA's state employee wellness program (HealthQuest) may be wasting state dollars by sending unnecessary letters. KHPA's contractor, Health Dialog, sends the following types of correspondence to state employees: welcome letter, chronic condition letter, chronic

condition gap letter, seasonal allergy letter, flu shot reminder postcard, and sensitive condition letter.

Auditors found that KHPA and Health Dialog limit waste related to HealthQuest correspondence by tailoring correspondence to employee health profiles. However, auditors recommend that KHPA monitor whether other individuals enrolled in HealthQuest are receiving unnecessary correspondence, and if the number of health profile inaccuracies appear significant, KHPA may want to address this issue with Health Dialog. Management agrees with the KHPA OIG's findings and recommendations.

(3) *Review of KHPA's Online Process for Submitting Claims with Associated Provider Write-Offs.* The KHPA OIG received a complaint from a member of the public who received a recoupment letter from KHPA. The complainant alleged the online claim form does not have a field for disclosing third party provider write-off amounts, and the claim submission webpage and provider manuals do not give clear instructions on how to submit claims with associated provider write-offs.

Auditors found that KHPA's online Medicaid claim forms do not provide a separate field for providers to enter contractual write-off amounts. Furthermore, while the third party provider manual clearly requires providers to disclose contractual write-off amounts, it fails to provide specific instructions on how providers may correctly submit online claims with associated contractual write-offs. Auditors noted that KHPA already started the process for correcting this problem in November 2008. According to management, KHPA may [inadvertently] pay the contractual write-off amount only when the Medicaid allowed amount is higher than the third party liability amount. Management said this is only a small portion of claims. Furthermore, management said once KHPA's new policy nears implementation, information will be published and distributed to providers and the manuals will be updated to explain the new process.

Other Activities

Other immediate goals of the office include:

- conducting other audits in the FY 2009 annual audit plan
- developing an FY 2010 audit plan that would allow the OIG to add the most value to KHPA programs and operations, but also preserve time for the OIG to be responsive to complaints from the public
- developing outreach strategies to inform potential fraud victims, state employees or other whistle blowers of their option to contact the OIG
- ensuring that KHPA OIG staff are properly trained as auditors and investigators, and have knowledge of the laws relevant to KHPA programs, as well as the methods for collecting the appropriate amount of creditable evidence of wrong doing, properly preserving that evidence and handing it off to appropriate agencies

FISCAL YEAR 2008 STATISTICS

K.S.A. 75-7427 requires this report to include certain statistics from the previous state fiscal year for your information. Those data, which are self-reported, are provided below.

Aggregate Information on Health Care Provider Sanctions

Three broad types of health care providers who provide services to the Medicaid program and the State Children's Health Insurance Plan (SCHIP) may be sanctioned for improper behavior: (1) nursing facilities and long-term care units; (2) providers contracting with managed care organizations (MCOs); and (3) fee-for-service providers, including those who provide services for Medicaid waiver participants. The reported statistics for each type of provider are found below.

■ Sanctions of *nursing facilities and long-term care units* are handled by the Kansas Department on Aging (KDOA). KDOA staff report that in FY 2008, there were a total of 113 Medicaid only facilities -- 81 nursing facilities and 32 long-term care units. During the fiscal year, six civil monetary penalties totaling $22,100 were assessed and 54 Medicaid only facilities had imposed upon them a denial of payment for new admissions. However, no agreements with Medicaid only facilities were terminated.

■ Sanctions of *providers credentialed by MCOs* are imposed by the MCOs with whom providers have a direct relationship. KHPA contracts with three MCOs to provide services for the Medicaid program and the State Children's Health Insurance Plan (SCHIP). KHPA staff report that in FY 2008, those MCOs in aggregate terminated two providers' agreements. No other sanctions were reported. Two other MCOs overseen by SRS provide care to Medicaid and SCHIP consumers. Statistics on provider sanctions from those MCOs are not available.

■ Sanctions of *providers in the fee-for-service and waiver programs* are handled by KHPA staff, who report the following statistics for FY 2008:

- Six providers were placed on "pre-pay review" status, which means before receiving payment, these providers are required to submit treatment records supporting the services provided. Three of these providers have since had their agreements terminated. KHPA utilizes pre-payment review in cases in which questionable billing practices or poor documentation have been identified.

- Seven providers had their agreements terminated. None was placed on a corrective action plan. A provider may be terminated for the reasons specified in KAR 30-5-60. A corrective action plan addresses both quality of care and quality and sufficiency of treatment records.

- Fifteen provider cases of suspected fraud were referred to the Kansas Attorney General's Medicaid Fraud and Abuse Division for further investigation.

Aggregate Information on Provider Billing and Payments

KHPA's fiscal agent, Electronic Data Systems (EDS), which processes claims for KHPA, reported processing 18 million claims in FY 2008, which resulted in payments of $2.28 billion. These numbers include payments to fee-for-service and waiver providers and capitation payments to the three MCOs with which KHPA contracts. Of the $2.28 billion, $262.18 million was for capitation payments to the three MCOs, who reported processing 3.1 million provider claims in FY 2008.

KHPA PROGRAM INTEGRITY ACTIVITIES

The chart below shows the KHPA programs and units performing program integrity functions. It also shows how these programs and units relate to federal agencies which provide oversight of KHPA medical assistance programs, as well as other State agencies which perform related program integrity functions.